

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

| | | |
|-------------------------|---|------------------------------|
| ALMA T. MCBROOM, |) | |
| |) | |
| PLAINTIFF, |) | |
| |) | |
| v. |) | CASE NO. 2:06-cv-767-MEF-SRW |
| |) | |
| VANESSA GORDON, ET AL., |) | |
| |) | |
| DEFENDANTS. |) | |

ORDER

This cause is before the Court on Plaintiff's Voluntary Motion to Dismiss Defendant Gordon Without Prejudice (Doc. # 65). By this motion, Plaintiff seeks to voluntarily and unilaterally dismiss her claims against one of several defendants in this case. Although Plaintiff does not indicate the legal, as opposed to the factual grounds for this motion, it is properly viewed as a motion pursuant to Federal Rule of Civil Procedure 41.

Pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure, a plaintiff may only voluntarily and unilaterally dismiss an action against a defendant prior to the time that defendant files an answer or motion for summary judgment, whichever first occurs. After a defendant files an answer or motion for summary judgment, a plaintiff seeking to dismiss claims against that defendant must file either: a stipulation of dismissal signed by all parties who have appeared in the action or a proper motion, which may be granted only absent objection from the defendant. *See* Fed. R. Civ. P. 41(a)(1)(ii) & Fed. R. Civ. P. 41(a)(2).

Defendant Vanessa Gordon, the defendant Plaintiff seeks to dismiss from this action,

has filed an answer to the Complaint. *See* Doc. # 18. For this reason, the Court may not grant Plaintiff's motion if Vanessa Gordon objects. Plaintiff's motion does not indicate whether Vanessa Gordon or any other party objects to the dismissal she seeks. For this reason, the motion is DENIED. It is further ORDERED that, on or before **May 11, 2007**, Plaintiff shall file appropriate submissions in accordance with the requirements of Federal Rule of Civil Procedure 41(a)(1) in the form of a joint stipulation of dismissal signed by all parties who have appeared in the action or a motion pursuant to Federal Rule of Civil Procedure 41(a)(2) that specifically states whether any defendant objects to the dismissal of Plaintiff's claims against Vanessa Gordon without prejudice.

DONE this the 7th day of May, 2007.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE